

### REMARKS

Applicant respectfully requests entry of the Amendment and reconsideration of the claims. Please cancel claims 11-13 and 17-29 without prejudice or disclaimer. Applicant reserves the right to pursue the subject matter of the claims in a continuations application.

New claims 30-39 have been added. Support can be found throughout the specification, including at pages 12-14. No new matter has been added by the new claims. Claims 30-39 will be pending upon entry of this amendment.

Applicant also wishes to bring compending application serial number 09/806,989 to the attention of the Examiner.

Applicant's also thanks Examiner Rae for his time in generally discussing the new claims contained herein with Applicant's representative, Brian Dorn.

Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a) and § 112, first and second paragraphs.

### Pending Rejections

The Examiner rejects claims 18-21 and 26-29 under 35 U.S.C. § 112, second paragraph; claims 22-25 under 35 U.S.C. § 112, first paragraph for an alleged lack of written description; and claims 11-13 and 17-29 under 35 U.S.C. § 103(a) for alleged obviousness. Applicants have cancelled claims 11-13 and 17-29. Thereby these previous rejections are moot.

Applicant respectfully asserts that the pending rejection under 35 U.S.C. § 103(a) does not apply to the current kit claims 30-34 or the method claims 35-39. To make a *prima facie* case of obviousness, the teachings of the prior art should have suggested the claimed subject matter to the person of ordinary skill in the art, and all the claim limitations must be taught or suggested in the references cited by the Examiner. *In re Kotzab*, 217 F.3d 1365, 1370 (Fed. Cir. 2000). The art cited by the Examiner does not teach or suggest the claimed combination of different formulations of a nitric oxide donor or nitric oxide agonist as claimed. Additionally, the art cited by the Examiner does not establish an effective amount of a nitric oxide donor or nitric oxide agonist for increasing insulin sensitivity. In view of the foregoing, Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a).

### Summary

In view of the above remarks, Applicants respectfully requests a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

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